

PETITION FOR WITHDRAWAL OF FUNDS FROM AN INCAPACITATED ADULT'S RESTRICTED ACCOUNT



PINAL COUNTY

HOW TO PETITION TO WITHDRAW FUNDS FROM A RESTRICTED ACCOUNT

INSTRUCTIONS AND FORMS

**Provided as a Public Service by
Amanda Stanford
Clerk of the Superior Court**

PETITION FOR WITHDRAWAL OF FUNDS FROM A RESTRICTED ACCOUNT OF AN INCAPACITATED ADULT

How to assemble these documents:

This packet contains general information and instructions on how to file Petition for Withdrawal of Funds from Restricted Account. Be sure the documents are in the following order:

| ORDER | TITLE | # OF PAGES |
|-------|--|------------|
| 1 | Table of Contents (This Page) | 1 |
| 2 | Instructions and Procedures: How to file Petition for Termination of Conservator and Release Funds | 2 |
| 3 | Petition for Withdrawal of Funds from an Incapacitated Adult's Restricted Account | 2 |
| 4 | Notice of Hearing (Petition for Withdrawal of Funds Restricted Account) | 1 |
| 5 | Proof of Notice Regarding Petition for Withdrawal of Funds | 1 |
| 6 | Order Authorizing Withdrawal of Funds from Restricted Account | 1 |

You have permission to use these forms for any lawful purpose. They shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents and that you contact an attorney to assist you in completing these forms if you have any questions.

INFORMATION and PROCEDURES
HOW TO FILE A PETITION FOR WITHDRAWAL OF FUNDS FROM RESTRICTED ACCOUNT

1. **Introduction:** You were appointed Conservator of an Incapacitated Adult through Pinal County Superior and a restricted bank account was set up on behalf of the Adult. This means that the funds cannot be used for **anything** until released by order of the Court. If the conservator wants to use the funds, the conservator **must** ask the Court in a petition for permission to use the funds.

2. **Complete the paperwork – Petition for Withdrawal of Funds from an Incapacitated Adult’s Restricted Account:** Fill out the forms completely and in **black ink**:
 - PETITION FOR WITHDRAWAL OF FUNDS FROM RELEASE OF FUNDS FROM RESTRICTED ACCOUNT. The Conservator should fill out completely the Petition for Withdrawal.
 - NOTICE OF HEARING (Petition for Withdrawal of Funds from an Incapacitated Adult’s Restricted Account). Complete the information of the person filing the document at the top of the page. Fill in the name of the adult in the caption. Reference the case number in which you were appointed conservator of the incapacitated adult. Date and sign the document. The clerk will complete the information regarding the hearing date.
 - PROOF OF NOTICE. Complete the information of the person filing the document at the top of the page. Fill in the name of the adult in the caption. Reference the case number in which you were appointed conservator of the adult. Complete this form **after** you have filed the original Petition for Withdrawal of Funds with the Clerk of the Superior Court. You must indicate who and how you gave parties entitled to receive notice of the Petition.
 - ORDER AUTHORIZING WITHDRAWAL OF FUNDS FROM RESTRICTED ACCOUNT. Complete the information of the person filing the document at the top of the page. Fill in the name of the adult in the caption. Reference the case number in which you were appointed conservator of the adult. The judge will complete the rest of the document at the hearing.

3. **Make Copies of Original Documents:** Make the appropriate set of copies that you will need in order to give notice of the PETITION and NOTICE OF HEARING to **all interested persons** who are entitled to receive notice of this hearing:
 - The protected adult;
 - To the spouse or adult child of an adult;
 - Any siblings and /or natural parents
 - The guardian, if the adult has one, unless the conservator is also the guardian;
 - To the guardian ad litem if one was appointed by the court.

4. **Take the Original and Copies to the Clerk to be filed:** Take all **originals and copies** of the documents **to the Clerk of the Superior Court**:

Visit our website for office locations or feel free to give us a call.

Contact Information for all Offices

Toll Free: 888.431.1311 • Local: 520.509.3555 or 311 • Fax: 520.866.5320

www.coscpinalcountyaz.gov/office.html

5. **Filing of Original Documents and Schedule a hearing on the Petition:** After you file the original Petition for Withdrawal and Financial Statement, a hearing will be set for you to tell the Judge what you want to buy, why, and how much you think it will cost. The clerk will also conform stamp all your copies and return copies back to you.
6. **Giving Notice of the Hearing to Interested Parties:** You must give a copy of the PETITION and NOTICE OF HEARING to **all interested persons**. You do not need to give formal notice by **personal service**, but you do need to **mail or deliver** the NOTICE OF HEARING. First class postage-prepaid mail is sufficient. Certified or Registered mail with return receipt is an extra step you can take to prove that the person you want notified actually received the notice. You can also give notice by Publication. People who should be given notice to include:
 - The protected adult;
 - To the spouse or adult child of an adult;
 - The guardian, if the adult has one, unless the conservator is also the guardian;
 - To the guardian ad litem if one was appointed by the court.
7. **Filing Proof of Notice:** Complete the rest of the Proof of Notice as to how you gave notice to all interested parties of the Petition and Notice of Hearing. You can file the Proof of Notice prior to your hearing date or give original Proof of Notice to the a Judge the day of your scheduled hearing. Make sure to keep a copy of the Proof of Notice when giving the original to the court.
8. **Attend the hearing:** Be ready to tell the Judge what you want to spend the money for, how much you think it will cost, and why this is in the best interests of the adult. If the Judge grants your Petition, the Order will tell you how much money you are authorized to spend, and what you can spend it on.
9. **Purchase a Certified Copy of the Order:** After the Order is signed; a certified copy of the Order will need to be purchased from the Customer Service Counter in the Clerk's Lobby. There is a \$26.00 certification fee plus \$0.50 per page copy charge to purchase a certified copy. Take the certified copy of the Order and present this to the bank, so that the bank will release the amount indicated on the Order.

OTHER HELP: If you still have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under "attorneys."

Name of Person Filing: _____
 Street Address: _____
 City, State, Zip Code: _____
 Telephone Number: _____
 Email Address: _____
 Representing Self (No Attorney) or Represented by Attorney
 If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
 PINAL COUNTY**

In the Matter of the Conservatorship of: _____ CASE NUMBER: GC _____

**PETITION FOR RELEASE OF FUNDS FROM
 RESTRICTED ACCOUNT**

_____ An Adult HONORABLE: _____

1. **APPOINTMENT:** The following person was appointed (name) _____ and accepted appointment as (check one box):

- Guardian and conservator on (date) _____
- Guardian (date) _____
- Conservator (date) _____

2. **BIRTH DATE.** The adult was born on (date) _____

3. **RESTRICTED FUNDS:** The adult has exactly \$ _____ in a restricted account deposited _____ with (name of bank or financial institution)

4. **NO PREVIOUS WITHDRAWALS.**

- No previous withdrawals have been made from the account without a written order of this Court. (If this statement is true, check the box. If the statement is not true, see a lawyer for help.)

5. **REASON THE FUNDS ARE NEEDED.**

- The minor/adult needs funds from the restricted account for the following reasons and in the following amounts:

| | REASON/PURPOSE | | AMOUNT |
|----------|----------------|----|--------|
| a. _____ | | \$ | _____ |
| b. _____ | | \$ | _____ |
| c. _____ | | \$ | _____ |

6. NO OTHER SOURCE OF FUNDS.

- There is no other source of funds to pay for these needs, and no parent or other person is under a legal obligation to satisfy this need. (If this statement is true, check the box. If the statement is not true, see a lawyer for help.)

REQUEST TO THE COURT

PETITIONER ASKS THAT THE COURT DO THE FOLLOWING THINGS AFTER NOTICE AND HEARING:

1. Direct the release of restricted funds in the amounts and for the purposes requested in this Petition;
2. Require proof to be filed with this Court within a reasonable period of time that the released funds have been used for the purposes described in this Petition;
3. Make any other orders the Court decides are in the best interests of the minor/adult.

OATH OR AFFIRMATION AND VERIFICATION

I swear or affirm that the information on this document is true and correct under penalty of perjury.

(SIGNATURE)

(DATE)

Sworn to or Affirmed before me this: _____ By _____

My Commission Expires:

(Notary Public or Deputy Clerk)

Name of Person Filing: _____
 Street Address: _____
 City, State, Zip Code: _____
 Telephone Number: _____
 Email Address: _____
 Representing Self (No Attorney) or Represented by Attorney
 If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
 PINAL COUNTY**

In the Matter of the Conservatorship of: _____ CASE NUMBER: GC _____

**NOTICE OF HEARING REGARDING PETITION
 FOR WITHDRAWAL OF RESTRICTED FUNDS**

_____ An Adult HONORABLE: _____

THIS IS A LEGAL NOTICE; YOUR RIGHTS MAY BE AFFECTED
 An important court proceeding that affects your rights has been scheduled. If you do not understand this Notice or the other court papers, contact an attorney for legal advice.

1. **NOTICE IS GIVEN** that the Petitioner has filed with the Court the following Petition and other court papers (List the title of the Petition and the title of all papers you filed with the court:

2. **COURT HEARING.** A court hearing has been scheduled to consider the Petition and matters in the court papers as follows:

HONORABLE JUDGE: _____
DATE AND TIME: _____
PLACE: Pinal County Justice Complex, Superior Court
971 Jason Lopez Circle, Bldg. A, Florence, AZ 85232

3. **RESPONSE TO PETITION.** You can file a written Response to the Petition. If you file a written Response, file the original with the court, provide a copy to the judge named above, and mail a copy to all interested parties at least five (5) business days before the hearing. Or, you can appear in person at the hearing. You must appear at the hearing only if you wish to object to the Petition. **Note:** There are filing fees associated with filing a written response, inquire with the Clerk of the Court.

If you wish to object to any part of the Petition or Motion that accompanies this notice, you must file with the Court a written objection describing the legal basis for your objection at least three (3) days before the hearing or you must appear in person or through an attorney at the time and place set forth in the notice of hearing.

 (Dated)

 (Petitioner's Signature)

Name of Person Filing: _____
 Street Address: _____
 City, State, Zip Code: _____
 Telephone Number: _____
 Email Address: _____
 Representing Self (No Attorney) or Represented by Attorney
 If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
 PINAL COUNTY**

In the Matter of the Conservatorship of: _____ CASE NUMBER: GC _____

PROOF OF NOTICE

 Minor HONORABLE: _____

The undersigned states that copies of the **Petition for Withdrawal of Funds from an Incapacitated Adult's Restricted Account** and complete Notice of Hearing were delivered or mailed to the following persons:

| <u>Name and Address</u> | <u>Delivered or Mailed</u> (state which was done) | <u>Date</u> |
|-------------------------|--|-------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

**The undersigned swears or affirms that the statements set forth above are true and correct,
 subject to the penalties of making a false affidavit or declaration.**

 (Date)

 (Signature)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20 _____

My Commission Expires: _____ (Deputy Clerk/Notary Public)

**SUPERIOR COURT OF ARIZONA
PINAL COUNTY**

In the Matter of the Conservatorship of: _____

CASE NUMBER: GC _____

**ORDER RELEASING FUNDS FROM A
RESTRICTED ACCOUNT AND REQUIRING
PROOF OF USE OF FUNDS**

An Adult

HONORABLE: _____

This is an important court order that could affect your legal rights. Read it carefully. If you do not understand it, see a lawyer for help.

THE COURT FINDS:

1. **PETITION FILED.** A Petition for Release Funds from a Restricted Account was filed by the Guardian and/or Conservator.
2. **NOTICE OF PETITION.** Notice of the Petition was: given as required by law AND/OR waived by the following interested persons _____, AND/OR
 Other _____

3. The Petition for Release of Funds from the Restricted Account has been reviewed by the Court, and the Court finds that the protected person is in need of funds for the reasons set forth in the Petition and that no parent or person is obligated to satisfy this need and that funds are not available from any other source for these purposes.

THE COURT ORDERS:

1. Directing (name of the depository/bank/financial institution) _____ to issue a check payable to the Guardian and/or Conservator in the amount of \$_____.
2. Directing the Guardian and/or Conservator to use the money for the following purposes, and to file receipts as proof that the funds have been used for the purposes within _____ days of this order.

| PURPOSE | | AMOUNT |
|---------|----|--------|
| _____ | \$ | _____ |
| _____ | \$ | _____ |
| _____ | \$ | _____ |
3. Ordering that this case shall be reviewed by court staff by (date) _____, to determine compliance of Guardian and/or Conservator with this order.

DONE IN OPEN COURT: _____

(JUDICIAL OFFICER OF THE SUPERIOR COURT)